

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 08.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.1276 of 1999

P.S.Natarjan

... Appellant

vs.

1. The General Manager,
State Transport Corporation
(Kovai Divn.II) Ltd., Erode.

2. The Enquiry Officer,
State Transport Corporation
(Kovai Divn.II) Ltd., Erode.

... Respondents

Appeal under Clause 15 of the Letters Patent against the order dated 14.07.1999 made in W.P. No.12017 of 1999 (passed by E.P.,J.). W.P.No.12017/1999:- This Petition presented to this Court under Article 226 Constitution of India to issue a Writ of certiorari calling for the records of the first respondent culminated in his proceedings B.No.1/D12/208-C/Law Divn.II/99 dated 22.6.1999 and that of the 2nd respondent in and by his proceedings No.208.C/99 dated 18.06.1999 quash the same.

For Appellant : Mr.M.M.Sundaresh

For Respondents: Mr.V.R.Kamalanathan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above Writ Appeal has been filed against the order of the learned single Judge dated 14.07.1999 made in W.P. No.12017 of 1999, in and by which, the learned Judge dismissed the said Writ Petition holding that it would be open to the petitioner to vindicate his grievance by raising an industrial dispute or challenge the ultimate order to be passed by the employer/Transport Corporation.

2. According to the appellant/writ petitioner, he joined the Respondents/Transport Corporation in the year 1981 as Trademan. On

20.04.1999, when he was working in the Corporation on night duty, one of the Conductors by name R.Kannusamy brought a suitcase left by a passenger. The said suit case was opened by the writ petitioner in the presence of the Conductor and the Engineer-in-charge, and the articles kept inside that suitcase were entered by him in the Unclaimed Article Form and in the Unclaimed Article Register. Thereafter, the entire materials have been placed inside the locker room. Both in the Unclaimed Article Form and in the Unclaimed Article Register, the Conductor and the Engineer signed. The entire articles including the jewels were accounted for and kept in the locker room and when the concerned passenger came and enquired the same, all the materials have been handed over to him. The Security Guard, who is supposed to make entry of the suit case, did not make any entry and also refused to be present at the time of opening of the suit. According to the petitioner/appellant, taking this instance as an opportunity, charges have been framed against him for violation of Standing Order 16(c) dated 29.4.1999 as to why action should not be taken against him. Pursuant to the said charges, Enquiry Officer has been appointed and the petitioner was asked to attend the enquiry. It is the case of the petitioner that by letter dated 07.05.1999, he requested the respondents to give copies of 6 documents relied upon by the Management for initiating action against him. It is also stated that all those documents are vital for the case and without the same, it would be difficult for him to participate in the enquiry. Since there was no response, he made another request on 21.5.1999 to the second respondent, praying for copies of those documents. It is the grievance of the petitioner that without considering his request, the second respondent conducted an ex parte enquiry and, by his proceedings dated 18.06.1999, found him guilty. Pursuant to the same, the first respondent, by his proceedings dated 22.06.1999, called upon the petitioner to show cause as to why he should not be removed from service. Questioning the said notice and the enquiry proceedings, the petitioner approached this Court by filing W.P. No.12017 of 1999.

3. The learned single Judge, by order dated 14.07.1999, after finding that the contention raised by the petitioner deserves to be considered and it cannot be stated that there are no merits, in a misconception that the impugned proceeding is only a show cause notice, dismissed the Writ Petition with liberty to the petitioner to agitate the same by raising an industrial dispute after final orders being passed.

4. Learned counsel appearing for the appellant has brought to our notice that the documents/materials requested for in the representation, which is available at page No.5 of the typed set of papers, are vital in order to establish his case. It is also the grievance of the appellant that even after such request to the Enquiry Officer as well as to the first respondent, without

supplying copies of those documents, the Enquiry Officer submitted the report, setting him ex parte. The Management, accepting the report of the Enquiry Officer, issued a show cause notice for his removal from service. It is relevant to note that after considering the grievance of the petitioner, the learned single Judge, in paragraph No.2 of the Order, has concluded, "... The contention raised by the learned counsel deserves to be considered and it cannot be stated that there are no merits.". Having found so, we are of the view that the learned single Judge ought to have directed the Management to supply copies of the documents as requested by the writ petitioner.

5. It is true that even after passing of final order by the Management, if the petitioner is aggrieved, he can very well challenge the same by raising industrial dispute, however, when the petitioner requested the Management for supply of some relevant documents, viz., Unclaimed Property Register, Unclaimed Article Form, Unclaimed Article Register, Information Register, Statements of the Conductor, Driver and Security Staff, Complaint of the Complainant, etc., we are of the view that since those documents/materials are relevant to the charges levelled against the petitioner/appellant, it is but proper on the part of the authority to furnish the same. It is unfortunate that the Enquiry Officer has intimated that the petitioner, in the course of such enquiry, can very well make the request for supply of those documents. Unless the petitioner is possessed of all the relevant/required documents pertaining to the charges levelled against him, it would not be possible for him to defend his case effectively in the enquiry. Though the learned single Judge has accepted the said aspect, no relief in that regard has been granted to the Writ Petitioner.

6. Under these circumstances, the order dated 14.07.1999, made in W.P. No.12017 of 1999, is set aside. Consequently, proceedings of the first respondent in B.No.1/D12/208-C/Law Divn.II/99 dated 22.6.1999 and that of the second respondent in proceedings No.208-C/99 dated 18.06.1999 are quashed. The respondents are directed to supply the documents/materials sought for by the writ petitioner/appellant and proceed with the enquiry after affording adequate opportunity to him.

7. Writ Appeal is allowed. No costs.

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

Jl.

To

1. The General Manager, State Transport Corporation (Kovai Divn.II) Ltd., Erode.
2. The Enquiry Officer, State Transport Corporation (Kovai Divn.II) Ltd., Erode.

1 cc to Mr.V.R.Kamalanathan, Advocate, Sr,. 11667
1 cc to Mr.M.M.Sundaresh, Advocate, Sr. 11413

W.A. No.1276 of 1999.

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